

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH

THOMPSON *AT*

CHILCOTT *K*

DRISCOLL *KS*

Date .....June 27, 2008

Members Present: Commissioner Carlotta Grandstaff, Commissioner Jim Rokosch, Commissioner Alan Thompson and Commissioner Kathleen Driscoll

► Commissioner Chilcott was in Helena for a JPIA meeting.

Minutes: Glenda Wiles

► The Right to Farm and Ranch Board met with the Commissioners in order to discuss zoning provisions. Commissioner Driscoll stated she attended a recent Hamilton CPC meeting and asked the Right to Ranch and Farm Board to visit with the Commissioners about their concerns. Also present at this meeting was Planner Vanessa Morrell.

Commissioner Rokosch stated he would like to see how the Right to Farm and Ranch Committee lines up their thoughts with the Draft B zoning regulations. He would also like to address the urban growth and density areas as well as the maps.

Vanessa stated they also need to address cluster developments and the density for 1 house per 10 acres and 1 house per 40 acres.

Right to Farm Chairman Dan Huls addressed the higher densities for sewer issues in regard to the transfer of development rights (TDR's). He stated they have some concerns how the zoning will affect the open lands bond in regard to transfer rights.

Commissioner Driscoll stated it is important to have a plan in regard to the urban areas due to the City of Hamilton's discussion of incorporation. She stated there are numerous residents in the potential areas of incorporation and they could be devastated by the cost of that incorporation.

Dan stated the ability to extract value is important and reiterated their desire not to negatively impact the open lands bond through this zoning effort.

Right to Farm and Ranch Board Member Mike Pflieger stated connecting TDR's right now will not help sell this program to the large land owners. If '1 for 10' with cluster options is allowed, then there is a way for the land owner to extract some asset for this land. The take down of the open lands won't be as devastating with the option of cluster development because they would not have houses on the whole 10 or 40 acres; rather the houses would be clustered on the whole 10 or 40 acres. He used the example of Roaring Lion Ranch which is a known elk corridor. He stated you should not regulate the owner of an elk habitat, you must allow her some TDR's to obtain some development rights on other lands in order to obtain her property assets.

Planning Board Member Ben Hillicoss stated he supports what the Right to Farm is doing, but there is a perception issue that needs to be worked on. One is the density, secondly is the value and lastly is that the zoning does not affect the purchase value. Ben also stated that over time, the zoning will increase the value because the density does not have an impact on the value. He felt this affects a good deal of the argument over density. He also felt the same thing should be true for conservation easement. Many of the land owners who have issues over the zoning are stressing their need for developmental rights so they can, in their mind, obtain their value. But in reality, those rights do not give the value as it is actually the zoning that gives the value. He felt the Commissioners should visit with some land appraisers and hear their thoughts.

Lesley Maki addressed the water issues on a ten acre parcel with one house. She stated 10 acre parcels do not work for agricultural.

Dan stated without orchard tracks, even with zoning, they should be able to cluster. Lesley reiterated that size does not work for agricultural land.

Mike stated if the county does not 'stack a land owner's option' they will never be able to obtain the value from their land. He stated if the land has value at a 35 acre piece, then why they would want to subdivide it? If that was the issue, then why would people need to subdivide their property? The land owner wants to extract value.

Ben stated people who own that land normally don't want to move, they sometimes just need to sell off part of their property. The Commissioners could state that any development on agricultural land must have clustered development.

Commissioner Driscoll stated she understands the clustering issue, but as a previous real estate agent, she understands the potential of shifting the agricultural land to development. The farmer must have an avenue to sell a portion of the farm rather than the whole farm to a developer.

Commissioner Rokosch stated Ben's comments are a major conceptual shift. He asked if they should require clustering within zoning in certain conditions such as: soils with statewide importance. In that instance they might want to require cluster development.

Mike stated 'some language like that' (referring to Ben's approach) would be fine. However, they need to review the water issue for cluster development. They should allow a landowner to be the developer and have the reins of that development on their property. He stated he does not feel government should make it so difficult and arduous that the landowner cannot participate in this process if he so chooses, i.e., selling a portion of his land in order to keep his home and the larger tract.

Lesley stated there is a lot of money to go around on this open lands issue. Commissioner Driscoll stated the agricultural people know where those good pieces of land are and that knowledge would be a good base line of information for the Commissioners when they are addressing subdivisions.

Vanessa stated the Open Land Board could set up criteria for these potential properties. Commissioner Rokosch stated legally they can not target certain pieces of land.

Dan stated one of the reasons their proposal designated irrigated and non-irrigated land is the soil types. Water is the key to the use of the land. He also noted there is a great deal of farmers who own 10 acre orchard tracts that are part of a 100 acre parcel. He stated the Commissioners must trust those land owners to continue to do the right thing on those 10 acre parcels.

Commissioner Rokosch stated he understands the importance of water, but the water issues can change, simply by acquiring water. He would like some distinction between irrigated and non-irrigated parcels. He felt the quality of the soil is important and they need to save the most productive piece of ground. With the food market – land with good soil will produce land with good value.

Dan stated irrigation for all pieces is important. If some of the canals are dried up, wells will dry up too.

Commissioner Rokosch asked if that is something the zoning should address.

Al Pernichele stated they are working on that right now for purpose of irrigation. They have met with numerous irrigators.

Ben suggested they look at what they want to accomplish then look at the laws and tax laws. Example: his parents owned 320 acres and they gave 13 grandkids 2 acres each. Four of the grandkids live on those 2 acres. His mother is giving each child 50 acres when she dies; that creates a problem in regard to zoning, taxes which increase etc.

Steve Powell stated Mike is right in terms of the details at this point. He felt it is important to obtain a conceptual approach or framework, and it gives him 'heartburn' to review specific criteria at this point. The program should be 'heavy on the incentive side rather than the regulation side'. If they spend too much time on the regulation side the open lands concept will be lost.

Alan Maki stated a lot of people farm through invisible fence lines and they can not always count on people to do the right thing all the time. Real farmers won't want to put a house in the middle of the 10 acres because they can't farm the property. They will put the house in the corner. And if they don't, then they are developers. He stated what worries him is when parcels get too small and then parcels are dismissed for any agricultural grants. Once a 10 acre piece is split, the next 10 acres will be split. He is speaking in behalf of the farmers and the youngsters who want to farm.

Commissioner Rokosch stated there has been a shift in what is considered viable agriculture. He noted people can have viable agricultural land on three acres, but that is not going to make a living. 5 acres of strawberries can produce a chunk of change, but it can not feed the world when it comes to viable agriculture. The urban areas are concerned about the loss of agriculture.

Commissioner Driscoll stated if the previous subdivision the Commissioners just heard had an incentive to cluster develop, it would not destroy the whole 35 acres.

Right to Farm and Ranch Board Member Don Dobberstein stated they should keep in mind the transportation issue (price of gas). The agricultural land can provide a lot of food for the people in the valley which will create more efficiency for the local people.

Commissioner Thompson stated it troubles and frustrates him the Commissioners tell a person they have to stay in farming. He does not feel the Commissioners can condemn someone to a life of farming. He would like to see the development of TDR's so the farmer has a choice. The whole zoning issue is frustrating him in regard to telling someone what they can and can not do with their property. He stated he is relying on the Right to Farm and Ranch Board to come up with some ideas to help the landowner. He also expressed concern that TDR's are difficult and some people say they do not work.

Dan stated Right to Farm and Ranch Board Member JoAnn Hosko was unable to attend and wrote a letter which is attached to these minutes.

The Commissioners thanked the Right to Ranch and Farm Board Members for their time.

► The Board met with the Planning Board Subcommittee in regard to the adequate mitigation for the loss of farmland. Those Members were J.R. Iman, Mary Lee Bailey and Ben Hillicoss. Also present was Planner Renee Lemon.

Ben stated they have some definition problems; those being: What is farmland, what is the adequate amount of farmland; thus they need to discuss those definitions first. Commissioner Grandstaff gave Ben some info from NRCS.

Commissioner Rokosch stated they must consider this issue during their subdivision process. Classifications such as prime soils, irrigation, soils of state wide importance, and local importance that are downgraded on bases of slope or soil unit. NRCS is willing to work with the county in regard to the local importance issue.

Commissioner Driscoll stated the local importance has been ruled too broad according to Civil Counsel. Therefore, they want to look at the local importance pieces that have good soil.

Commissioner Rokosch stated in Ravalli County the NRCS shows a total of 385,000 acres with 10% mapped as prime. The Commissioners will be working with GIS in order to obtain good mapping. They want to look at the prime soils which the NRCS says is 3-5%, but first they must take out the roads, houses, gravel pits, wetlands etc. This discussion will take place on July 3<sup>rd</sup> at 0900 hours. While they need to define mitigation, they need to see what they actually have left in the way of farm land.

Commissioner Driscoll stated the Department of Revenue is re-mapping the land in regard to the agricultural and forest timber.

Commissioner Thompson stated he understands this subcommittee was to look at how they could mitigate the loss of farm land. He would hope they would look at the designation that comes from the state. There is a difference of opinion on the Commissioner's Board as he does not think the local importance should be considered in the subdivision process. While he would like to save as much farm land as possible, there are some parcels that have no local importance because they do not have water availability. He stated he does not like the term 'local importance' because it is not good quality land. He has no problems utilizing the designation from the state.

Commissioner Grandstaff stated Commissioner Thompson says his land is not of local importance yet he tells us how much crop he produces on his 3 acres; so there is some local importance. She also addressed the irrigation water, stating it is important to address that issue in regard to the mitigation issue. She felt they should not use just one component on the local importance issue.

Commissioner Driscoll stated she is confused because she thought Commissioner Thompson wanted this considered.

Renee stated she had a conversation with NRCS (Neil) in regard to his work with "Community Food and Ag Coalition". Neil does not think it is worthwhile to pursue another classification. Rather, to use other criteria such as water, other adjoining land uses etc. The NRCS is based on a scale and they can not zoom into a certain site. In other words look at each site.

J.R. noted the state survey looks at irrigation, water etc. Their book addresses the SCS qualifications from 1-5 (5 being the worst) and gradations within the qualifications. They do not address any thing that is outside the prime soils etc. Other land that has scenic value etc. is not addressed in these qualifications. The local RC & D will meet in another three weeks to disavow any properties that are outside those qualifications. In regard to the Open Lands Board, those other properties can be qualified, but not for soils of statewide importance. He stated he sees no advantage because it gives a taxing authority.

The Conservation District will consider delisting these other lands because of the taxing value that people want to impose.

Commissioner Rokosch stated the soils criteria have mapping units based on slopes, soil classifications etc. He stated maybe they should come up with a different classification for these remaining 80,000 acres which could be cut in half if they include the soils analysis and slopes. That would then base the soils classification in a tiered recognition of their importance for mitigation purposes. Right now they have no rationale for that mitigation. He stated he is hoping the subcommittee can come up with that mitigation formula. In regard to Commissioner Thompson's concerns, they would like to work with NRCS and look at the soils based on chemical components so they can move forward on statewide and prime soils. After that they would like to hone in on the local importance. The issue becomes if it can be mitigated, what is adequate mitigation based on a rationale?

Ben stated when he reviewed the Montana Code he was surprised to see that he did not find the words 'prime and local'. The code simply says protect agricultural land. He also stated they can protect it from being removed and they can address the issue of mitigation.

Renee stated it sounds like they should see what other communities have done.

Dan Huls from the Right to Farm and Ranch Board stated Rob might have some information from the Farm Land Trust. Commissioner Grandstaff suggested they visit with the local Community Food Project.

Renee and Vanessa both agreed the issue is to define the farmland. Ben stated he would not be opposed to broadening the size of this subcommittee to include others that are already working on the land issue.

Commissioner Thompson stated he does not have a 'dog in this fight' because his land can not be subdivided again. He stated his garden is 3,300' and he raises everything including cows. Commissioner Grandstaff asked how you can raise things on bad ground. Commissioner Thompson stated he puts fertilizer and waters his ground, he sprays etc. Thus his work is intensive.

Commissioner Rokosch stated the dollars they are obtaining through mitigation is going to the Open Lands program. The whole idea of the local importance came about through NRCS for their farm land protection program, i.e., more lands to qualify for conservation easements to help the farmers to keep the land working. He stated the classification is justifiable because it provides money for the easements and conservations. But if many think that is too inclusive (the local importance), then he will back off of that and simply state they could look at the qualifications defined by the state. He stated there might be other ways to mitigate this issue other than money.

Renee stated instead of just looking at soils, they could look at what makes farm land. The committee could include an irrigator, an extension agent, Planning Board Member and staff etc.

Commissioner Rokosch stated the whole intent is to obtain factual data to help the Commissioners make better decisions for development requests. Evaluating the agricultural criteria in the subdivision process is not easy because they do not have good data in order to make those decisions.

**It was agreed to have a sub committee including:**

- **Planning Board Members Ben and Mary Lee,**
- **an irrigation district member,**
- **Extension,**
- **Farm Bureau,**
- **Right to Farm and Ranch,**
- **J.R. Iman of the Bitterroot Conservation District,**
- **NRCS, and**
- **A Planning Staff Member who will define the agricultural lands with certain criteria (using some of the Open Lands criteria). This planning staff member will also have to look at the criteria for zoning also.**

**Renee and Vanessa will draft a mission statement and allow the Commissioners to approve this in a motion at a later date after review.**

► The Board met with Planning Director Karen Hughes and Planner Shaun Morrell to discuss a letter that will be sent to land owners with large parcels of land. The Planning Staff felt the best way was to mail a letter to those land owners with large parcels inviting them to meet with the Commissioners during specific office hours on an individual basis rather than a group meeting.

Commissioner Thompson asked what the cut off on sizes of parcels would be. Karen stated the top land owners have land parcels at around 150-200 acres. Karen stated the mailing would go to specific land owners and they can also publish this letter in the newspaper. Commissioner Thompson also asked if the Board should sign the letters or individual Commissioners should send out a letter to their constituents. Commissioner Grandstaff and Driscoll stated they liked the personal signatures better.

Discussion included letters that might go to Darby since they voted to opt out of the zoning. Karen stated while they might be out of this process, those land owners might want to be zoned in the future.

Commissioner Rokosch stated while he sees value in the first person, he also thinks it is important the entire Commission sign the letter to show they are in agreement with the process. He stated he would like to let the citizens know the Commissioners are open to meet at any time.

**It was agreed to send the letter out as individual Commissioners. The Planning Staff will review the personal and quorum calendars in order to ensure available times and dates for individuals to meet with the Commissioners. It was agreed to keep the calendar as free as possible for the weeks of August 4<sup>th</sup> and August 11<sup>th</sup>.**



June 19, 2008

To: Ravalli County Commissioners

From: Joann Hosko

Re: Meeting with Right to Farm and Ranch Board to discuss proposed zoning

Inasmuch as I will be unable to attend a meeting on either June 25 or 27, I would like to submit these comments, which might be considered a minority report. While the intent of a meeting is to speak of densities and cluster development, discussions often migrate to other topics. I wish to address the general situation.

As you probably know, I am opposed to involuntary zoning, that which takes the process out of the hands of those who will be personally effected, and places it in the hands of a majority with loud voices and seemingly little to lose. This is what President Dwight D. Eisenhower meant by the "tyranny of the weak." I do not know unequivocally, as some profess to, whether zoning will ultimately be a positive or a negative. I have observed that little is so bad that it cannot be made worse by a strident few convincing the masses that they indeed see the light, whereas those who disagree are struggling in the darkness.

I would remind those who now want to close the gate to future development, that most of them would not have been able to buy and live here had some landowner not been permitted to sell to them. The longtime owners of larger parcels remain because they were unwilling to sell out for a few shekels in the past. Many of us still have no desire to sell. But these are our assets, and if financial, health, age, etc. circumstances forced a sale, we do not see the justice in being punished because we did not knuckle under when others did, just for money. It seems ironic that we would be the ones now set to be diminished because we held out. It is true that no good deed goes unpunished.

Just because I am a minority voice on the Right to Farm and Ranch Board does not mean that my voice should not be heard. Clusters may or may not be the best solution, but a glut of them on the market will surely devalue the land. Let supply and demand decide whether land is suitable for development, I.e. nonirrigated land will be designated as having a lesser value. This is based on the purchase price of the land, which is a bit hard to fathom when some land was homesteaded more than a hundred years ago, and some was bought in the 1940s for \$100 per acre. We are not even speaking the same language.

Additionally, we know that many of the public are aghast at the micromanagement aspects of Draft B, as well as the illogical back-to-back density proposals of Map 1, which have been appropriately described as de facto conservation easements without the benefit of compensation. What I know is that I do not know all the answers, but I do know these are not the answers. Please take reasonable time to think this through for the benefit of all.

Respectfully submitted,

Joann Hosko